



March 25, 2005

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## ENGROSSED SENATE BILL No. 568

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DIGEST OF SB 568 (Updated March 24, 2005 11:48 am - DI 14)

**Citations Affected:** IC 16-18; IC 16-21; IC 16-31; noncode.

**Synopsis:** Birthing centers. Requires birthing centers and abortion clinics to be licensed by the state department of health. Excludes: (1) a birthing center; and (2) a physician's office; from the definition of an ambulatory outpatient surgical center.

**Effective:** Upon passage; July 1, 2005.

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### Miller

(HOUSE SPONSORS — LUTZ J, BECKER, NOE)

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January 20, 2005, read first time and referred to Committee on Health and Provider Services.

February 24, 2005, amended, reported favorably — Do Pass.

February 28, 2005, read second time, ordered engrossed. Engrossed.

March 1, 2005, read third time, passed. Yeas 48, nays 0.

#### HOUSE ACTION

March 14, 2005, read first time and referred to Committee on Public Health.

March 15, 2005, reassigned to Committee on Public Policy and Veterans Affairs.

March 24, 2005, amended, reported — Do Pass.

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ES 568—LS 7858/DI 104+



March 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 568

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 16-18-2-14 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) "Ambulatory  
3 outpatient surgical center", for purposes of IC 16-21 and IC 16-38-2,  
4 means a public or private institution that meets the following  
5 conditions:

6 (1) Is established, equipped, and operated primarily for the  
7 purpose of performing surgical procedures and services.

8 (2) Is operated under the supervision of at least one (1) licensed  
9 physician or under the supervision of the governing board of the  
10 hospital if the center is affiliated with a hospital.

11 (3) Permits a surgical procedure to be performed only by a  
12 physician, dentist, or podiatrist who meets the following  
13 conditions:

14 (A) Is qualified by education and training to perform the  
15 surgical procedure.

16 (B) Is legally authorized to perform the procedure.

17 (C) Is privileged to perform surgical procedures in at least one

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(1) hospital within the county or an Indiana county adjacent to the county in which the ambulatory outpatient surgical center is located.

(D) Is admitted to the open staff of the ambulatory outpatient surgical center.

(4) Requires that a licensed physician with specialized training or experience in the administration of an anesthetic supervise the administration of the anesthetic to a patient and remain present in the facility during the surgical procedure, except when only a local infiltration anesthetic is administered.

(5) Provides at least one (1) operating room and, if anesthetics other than local infiltration anesthetics are administered, at least one (1) postanesthesia recovery room.

(6) Is equipped to perform diagnostic x-ray and laboratory examinations required in connection with any surgery performed.

(7) Does not provide accommodations for patient stays of longer than twenty-four (24) hours.

(8) Provides full-time services of registered and licensed nurses for the professional care of the patients in the postanesthesia recovery room.

(9) Has available the necessary equipment and trained personnel to handle foreseeable emergencies such as a defibrillator for cardiac arrest, a tracheotomy set for airway obstructions, and a blood bank or other blood supply.

(10) Maintains a written agreement with at least one (1) hospital for immediate acceptance of patients who develop complications or require postoperative confinement.

(11) Provides for the periodic review of the center and the center's operations by a committee of at least three (3) licensed physicians having no financial connections with the center.

(12) Maintains adequate medical records for each patient.

(13) Meets all additional minimum requirements as established by the state department for building and equipment requirements.

(14) Meets the rules and other requirements established by the state department for the health, safety, and welfare of the patients.

**(b) The term does not include a birthing center.**

SECTION 2. IC 16-18-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. (a) "Abortion clinic", for purposes of IC 16-21-2, means a freestanding entity that performs surgical abortion procedures.**

**(b) The term does not include the following:**

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(1) A hospital that is licensed as a hospital under IC 16-21-2.

(2) An ambulatory outpatient surgical center that is licensed as an ambulatory outpatient surgical center under IC 16-21-2.

(3) A physician's office as long as the surgical procedures performed at the physician's office are not primarily surgical abortion procedures.

SECTION 3. IC 16-18-2-36.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 36.5. (a) "Birthing center", for purposes of IC 16-21-2, means a freestanding entity that has the sole purpose of delivering a normal or uncomplicated pregnancy.

(b) The term does not include a hospital that is licensed as a hospital under IC 16-21-2.

SECTION 4. IC 16-21-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Except as provided in subsection (b), the council shall propose and the executive board may adopt rules under IC 4-22-2 necessary to protect the health, safety, rights, and welfare of patients, including the following:

(1) Rules pertaining to the operation and management of hospitals, ~~and~~ ambulatory outpatient surgical centers, **abortion clinics, and birthing centers.**

(2) Rules establishing standards for equipment, facilities, and staffing required for efficient and quality care of patients.

(b) The state department may request the council to propose a new rule or an amendment to an existing rule necessary to protect the health, safety, rights, and welfare of patients. If the council does not propose a rule within ninety (90) days of the department's request, the department may propose its own rule.

(c) The state department shall consider the rules proposed by the council and may adopt, modify, remand, or reject specific rules or parts of rules proposed by the council.

SECTION 5. IC 16-21-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to all hospitals, ~~and~~ ambulatory outpatient surgical centers, **abortion clinics, and birthing centers.**

(b) This chapter does not apply to a hospital operated by the federal government.

(c) This chapter does not affect a statute pertaining to the placement and adoption of children.

SECTION 6. IC 16-21-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The state department

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shall license and regulate:

- (1) hospitals; ~~and~~
- (2) ambulatory outpatient surgical centers;
- (3) birthing centers; and
- (4) abortion clinics.

SECTION 7. IC 16-21-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.5. (a) The state department shall adopt rules under IC 4-22-2 to do the following concerning birthing centers and abortion clinics:**

- (1) Establish minimum license qualifications.
- (2) Establish the following requirements:
  - (A) Sanitation standards.
  - (B) Staff qualifications.
  - (C) Necessary emergency equipment.
  - (D) Procedures to provide emergency care.
  - (E) Quality assurance standards.
  - (F) Infection control.
- (3) Prescribe the operating policies, supervision, and maintenance of medical records.
- (4) Establish procedures for the issuance, renewal, denial, and revocation of licenses under this chapter. The rules adopted under this subsection must address the following:
  - (A) The form and content of the license.
  - (B) The collection of an annual license fee.
- (5) Prescribe the procedures and standards for inspections.
- (b) A person who knowingly or intentionally:
  - (1) operates a birthing center or an abortion clinic that is not licensed under this chapter; or
  - (2) advertises the operation of a birthing center or an abortion clinic that is not licensed under this chapter;

**commits a Class A misdemeanor.**

SECTION 8. IC 16-21-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. A:**

- (1) person;
- (2) state, county, or local governmental unit; or
- (3) division, a department, a board, or an agency of a state, county, or local governmental unit;

must obtain a license from the state health commissioner under IC 4-21.5-3-5 before establishing, conducting, operating, or maintaining a hospital, ~~or an ambulatory outpatient surgical center, an~~ **abortion clinic, or a birthing center.**

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SECTION 9. IC 16-21-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) An applicant must submit an application for a license on a form prepared by the state department showing that:

- (1) the applicant is of reputable and responsible character;
- (2) the applicant is able to comply with the minimum standards for a hospital, ~~or~~ an ambulatory outpatient surgical center, **an abortion clinic, or a birthing center**, and with rules adopted under this chapter; and
- (3) the applicant has complied with section 15.4 of this chapter.

(b) The application must contain the following additional information:

- (1) The name of the applicant.
- (2) The type of institution to be operated.
- (3) The location of the institution.
- (4) The name of the person to be in charge of the institution.
- (5) If the applicant is a hospital, the range and types of services to be provided under the general hospital license, including any service that would otherwise require licensure by the state department under the authority of IC 16-19.
- (6) Other information the state department requires.

SECTION 10. IC 16-21-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. A license to operate a hospital, ~~or~~ an ambulatory outpatient surgical center, **an abortion clinic, or a birthing center**:

- (1) expires one (1) year after the date of issuance;
- (2) is not assignable or transferable;
- (3) is issued only for the premises named in the application;
- (4) must be posted in a conspicuous place in the facility; and
- (5) may be renewed each year upon the payment of a renewal fee at the rate adopted by the council under IC 4-22-2.

SECTION 11. IC 16-21-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. A hospital, ~~or~~ an ambulatory outpatient surgical center, **an abortion clinic, or a birthing center** that provides to a patient notice concerning a third party billing for a service provided to the patient shall ensure that the notice:

- (1) conspicuously states that the notice is not a bill;
- (2) does not include a tear-off portion; and
- (3) is not accompanied by a return mailing envelope.

SECTION 12. IC 16-31-6.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. This chapter does not

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1 apply to the following:

2 (1) A licensed physician.

3 (2) A hospital, ~~or~~ an ambulatory outpatient surgical center, **an**  
4 **abortion clinic, or a birthing center.**

5 (3) A person providing health care in a hospital, ~~or~~ an ambulatory  
6 outpatient surgical center, **an abortion clinic, or a birthing**  
7 **center** licensed under IC 16-21.

8 (4) A person or entity certified under IC 16-31-3.

9 SECTION 13. [EFFECTIVE UPON PASSAGE] (a) As used in this  
10 SECTION, "state department" refers to the state department of  
11 health.

12 (b) The state department shall, not later than June 30, 2005,  
13 establish licensing procedures and requirements for the licensure  
14 of birthing centers as required under IC 16-21-2-2.5, as added by  
15 this act.

16 (c) If a birthing center is in existence on June 30, 2005,  
17 IC 16-21-2, as amended by this act, applies after November 30,  
18 2005.

19 (d) If a birthing center does not exist on June 30, 2005,  
20 IC 16-21-2, as amended by this act, applies beginning July 1, 2005.

21 (e) This SECTION expires December 31, 2006.

22 SECTION 14. [EFFECTIVE UPON PASSAGE] (a) As used in this  
23 SECTION, "state department" refers to the state department of  
24 health.

25 (b) The state department shall, not later than December 31,  
26 2005, establish licensing procedures and requirements for the  
27 licensure of abortion clinics as required under IC 16-21-2-2.5, as  
28 added by this act.

29 (c) An abortion clinic shall, not later than July 1, 2006:

30 (1) obtain the license required; and

31 (2) meet the requirements established;

32 by the state department under IC 16-21-2-2.5, as added by this act.

33 (d) This SECTION expires December 31, 2006.

34 SECTION 15. An emergency is declared for this act.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 568, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 36 through 38.

Page 2, line 39, after "include" insert ":

**(1) a birthing center; or**

**(2)".**

Page 2, after line 41, begin a new paragraph and insert the following:

"SECTION 2. IC 16-18-2-36.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 36.5. (a) "Birthing center", for purposes of IC 16-21-2, means a freestanding entity that has the sole purpose of delivering a normal or uncomplicated pregnancy.**

**(b) The term does not include a hospital that is licensed as a hospital under IC 16-21-2.**

SECTION 3. IC 16-21-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Except as provided in subsection (b), the council shall propose and the executive board may adopt rules under IC 4-22-2 necessary to protect the health, safety, rights, and welfare of patients, including the following:

(1) Rules pertaining to the operation and management of hospitals, ~~and~~ ambulatory outpatient surgical centers, **and birthing centers.**

(2) Rules establishing standards for equipment, facilities, and staffing required for efficient and quality care of patients.

(b) The state department may request the council to propose a new rule or an amendment to an existing rule necessary to protect the health, safety, rights, and welfare of patients. If the council does not propose a rule within ninety (90) days of the department's request, the department may propose its own rule.

(c) The state department shall consider the rules proposed by the council and may adopt, modify, remand, or reject specific rules or parts of rules proposed by the council.

SECTION 4. IC 16-21-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to all hospitals, ~~and~~ ambulatory outpatient surgical centers, **and birthing centers.**

(b) This chapter does not apply to a hospital operated by the federal

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government.

(c) This chapter does not affect a statute pertaining to the placement and adoption of children.

SECTION 5. IC 16-21-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The state department shall license and regulate:

- (1) hospitals; ~~and~~
- (2) ambulatory outpatient surgical centers; **and**
- (3) **birthing centers.**

SECTION 6. IC 16-21-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. A:

- (1) person;
- (2) state, county, or local governmental unit; or
- (3) division, a department, a board, or an agency of a state, county, or local governmental unit;

must obtain a license from the state health commissioner under IC 4-21.5-3-5 before establishing, conducting, operating, or maintaining a hospital, ~~or an ambulatory outpatient surgical center,~~ **or a birthing center.**

SECTION 7. IC 16-21-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) An applicant must submit an application for a license on a form prepared by the state department showing that:

- (1) the applicant is of reputable and responsible character;
- (2) the applicant is able to comply with the minimum standards for a hospital, ~~or an ambulatory outpatient surgical center,~~ **or a birthing center,** and with rules adopted under this chapter; and
- (3) the applicant has complied with section 15.4 of this chapter.

(b) The application must contain the following additional information:

- (1) The name of the applicant.
- (2) The type of institution to be operated.
- (3) The location of the institution.
- (4) The name of the person to be in charge of the institution.
- (5) If the applicant is a hospital, the range and types of services to be provided under the general hospital license, including any service that would otherwise require licensure by the state department under the authority of IC 16-19.
- (6) Other information the state department requires.

SECTION 8. IC 16-21-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. A license to operate a hospital, ~~or an ambulatory outpatient surgical center,~~ **or a birthing**

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**center:**

- (1) expires one (1) year after the date of issuance;
- (2) is not assignable or transferable;
- (3) is issued only for the premises named in the application;
- (4) must be posted in a conspicuous place in the facility; and
- (5) may be renewed each year upon the payment of a renewal fee at the rate adopted by the council under IC 4-22-2.

SECTION 9. IC 16-21-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. A hospital, ~~or~~ an ambulatory outpatient surgical center, **or a birthing center** that provides to a patient notice concerning a third party billing for a service provided to the patient shall ensure that the notice:

- (1) conspicuously states that the notice is not a bill;
- (2) does not include a tear-off portion; and
- (3) is not accompanied by a return mailing envelope.

SECTION 10. IC 16-31-6.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. This chapter does not apply to the following:

- (1) A licensed physician.
- (2) A hospital, ~~or~~ an ambulatory outpatient surgical center, **or a birthing center**.
- (3) A person providing health care in a hospital, ~~or~~ an ambulatory outpatient surgical center, **or a birthing center** licensed under IC 16-21.
- (4) A person or entity certified under IC 16-31-3.

SECTION 11. [EFFECTIVE UPON PASSAGE] (a) **As used in this SECTION, "state department" refers to the state department of health.**

(b) **The state department shall, not later than June 30, 2005, establish licensing procedures and requirements for the licensure of birthing centers as required under IC 16-21-2-2, as amended by this act.**

(c) **If a birthing center is in existence on June 30, 2005, IC 16-21-2, as amended by this act, applies after November 30, 2005.**

(d) **If a birthing center does not exist on June 30, 2005, IC 16-21-2, as amended by this act, applies beginning July 1, 2005.**

(e) **This SECTION expires December 31, 2006.**

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**SECTION 12. An emergency is declared for this act."**

and when so amended that said bill do pass.

(Reference is to SB 568 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 9, Nays 0.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred Senate Bill 568, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 36, delete ":".

Page 2, line 37, delete "(1)".

Page 2, line 37, delete "center; or" and insert "**center**".

Page 2, run in lines 36 through 37.

Page 2, delete lines 38 through 40.

Page 2, between lines 40 and 41, begin a new paragraph and insert:  
**"SECTION 3. IC 16-18-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) "Abortion clinic", for purposes of IC 16-21-2, means a freestanding entity that performs surgical abortion procedures.**

**(b) The term does not include the following:**

**(1) A hospital that is licensed as a hospital under IC 16-21-2.**

**(2) An ambulatory outpatient surgical center that is licensed as an ambulatory outpatient surgical center under IC 16-21-2.**

**(3) A physician's office as long as the surgical procedures performed at the physician's office are not primarily surgical abortion procedures."**

Page 3, line 12, after "centers," insert "**abortion clinics**".

Page 3, line 27, after "centers," insert "**abortion clinics**".

Page 3, line 36, delete "and".

Page 3, line 37, delete "." and insert "; **and**

**(4) abortion clinics."**

Page 3, between lines 37 and 38, begin a new paragraph and insert:  
**"SECTION 7. IC 16-21-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. (a) The state department shall adopt rules under IC 4-22-2 to do the following concerning birthing centers and abortion clinics:**

**(1) Establish minimum license qualifications.**

**(2) Establish the following requirements:**

**(A) Sanitation standards.**

**(B) Staff qualifications.**

**(C) Necessary emergency equipment.**

**(D) Procedures to provide emergency care.**

**(E) Quality assurance standards.**

**(F) Infection control.**

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(3) Prescribe the operating policies, supervision, and maintenance of medical records.

(4) Establish procedures for the issuance, renewal, denial, and revocation of licenses under this chapter. The rules adopted under this subsection must address the following:

(A) The form and content of the license.

(B) The collection of an annual license fee.

(5) Prescribe the procedures and standards for inspections.

(b) A person who knowingly or intentionally:

(1) operates a birthing center or an abortion clinic that is not licensed under this chapter; or

(2) advertises the operation of a birthing center or an abortion clinic that is not licensed under this chapter;

commits a Class A misdemeanor."

Page 4, line 4, after "center," insert "an abortion clinic,".

Page 4, line 12, after "center," insert "an abortion clinic,".

Page 4, line 28, after "center," insert "an abortion clinic,".

Page 4, line 38, after "center," insert "an abortion clinic,".

Page 5, line 6, after "center," insert "an abortion clinic,".

Page 5, line 9, after "surgical center," insert "an abortion clinic,".

Page 5, line 17, delete "IC 16-21-2-2, as amended" and insert "IC 16-21-2-2.5, as added".

Page 5, between lines 24 and 25, begin a new paragraph and insert:  
"SECTION 14. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "state department" refers to the state department of health.

(b) The state department shall, not later than December 31, 2005, establish licensing procedures and requirements for the licensure of abortion clinics as required under IC 16-21-2-2.5, as added by this act.

(c) An abortion clinic shall, not later than July 1, 2006:

(1) obtain the license required; and

(2) meet the requirements established;

by the state department under IC 16-21-2-2.5, as added by this act.

(d) This SECTION expires December 31, 2006."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 568 as printed February 25, 2005.)

ALDERMAN, Chair

Committee Vote: yeas 11, nays 0.

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